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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 CHARLES V. REED,

8 Plaintiff,

9 v.

10 STATE OF WASHINGTON, et al.,

11
12 Defendants.

Case No. C09-5677 BHS

ORDER ADOPTING REPORT AND
RECOMMENDATION

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14 This matter comes before the Court on the Amended Report and Recommendation
15 of the Honorable J. Richard Creatura, United States Magistrate judge, dated May 10,
16 2010 (Dkt. 24), and “Plaintiff’s Brief and Memorandum of Law in Objection to Dismiss”
17 dated May 4, 2010 (Dkt. 26). The Court has considered the Amended Report and
18 Recommendation¹, Plaintiff’s objections, and the remaining record, and hereby adopts
19 the Amended Report and Recommendation for the reasons stated herein.
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21 The Magistrate Judge recommends that Defendants’ motion to dismiss be granted
22 in part and denied in part. First, Defendant State of Washington is entitled to Eleventh
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25 ¹ The Report and recommendation states that “[a]n appeal of [plaintiff’s] grievance
26 resulted in the upholding of the grievance as nongrievable. Report and Recommendation at p.3,
lines 24-26. A more accurate statement is that the appeal upheld the administrative
determination that the issue was nongrievable.

1 Amendment immunity. Second, the allegations against Defendant Hisami Yoshida do
2 not rise to a level of a constitutional violation and the Court should decline jurisdiction
3 over state law claims.

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5 Plaintiff's objections are largely a restatement of the arguments made before the
6 Magistrate Judge and are primarily directed at a Defendant who is not a part of this
7 Report and Recommendation.

8 Therefore, it is hereby **ORDERED** that:

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10 (1) The Court adopts the Report and Recommendation;
- 11 (2) Claims against the State of Washington are **DISMISSED WITH**
12 **PREJUDICE** pursuant to the Eleventh Amendment. The federal claim
13 against Hisami Yoshida is also **DISMISSED WITH PREJUDICE** as
14 Plaintiff has no constitutional right to file an appeal from a disciplinary
15 hearing. The state claims against Hisami Yoshida are **DISMISED**
16 **WITHOUT PREJUDICE**.

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18 DATED this 7th day of June, 2010.

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BENJAMIN H. SETTLE
United States District Judge